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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/646,511	08/23/2003	Garold B. Bitner II	4007M	9665
7590	06/08/2005		EXAMINER	
S. Michael Bender P.O. Box 530399 St. Petersburg, FL 33747			REDMAN, JERRY E	
			ART UNIT	PAPER NUMBER
			3634	

DATE MAILED: 06/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/646,511

Applicant(s)

BITNER, GAROLD B.

Examiner

Jerry Redman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claims 2 and 3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 2, line 2, it is not readily apparent to the Examiner if the applicant is claiming a bug barrier apparatus or a bug barrier apparatus in combination with a door. In claim 2, line 2, the applicant is clearly and positively claiming the door but in claim 1, the applicant fails to positively recite the door. If the applicant intends to claim the combination then the applicant should clearly and positively recite the barrier in combination with the door.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murase et al. in view of Patent application publication to Meizlish. As shown in Figure 14, Murase et al. disclose a bug barrier apparatus comprising a sliding door (55), a support member (labeled as 50 in Figure 12) having flexible bristles (49) connected to a bottom end of the support member (50), a door attachment means (projections 51), and a track (64) contacted by the flexible bristles (49) during sliding movement of the sliding door (55). The support member (50) further comprising a thru channel defined by a top end, a bottom end, and a pair of riser portions, which defines a four-sided configuration. Murase et al. fail to disclose the attachment means in the form of double sided foam

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adhesive strips/tape. Patent application publication to Meizlish discloses a weatherstrip mounted via double-sided foam adhesive tape. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the support member of Murase et al. to be attached to the sliding door via double sided foam adhesive tape as taught by Meizlish since double sided foam adhesive tape allows one to easily mount and replace the support member along the edge of the sliding door and the use of double sided foam adhesive is well known in attaching two elements together.

The applicant's arguments have been considered but are not deemed persuasive. With respect to the 112 second paragraph rejections, the applicant states that the current amendments addresses/overcomes the 112 second paragraph rejections. The applicant's arguments are not found persuasive since the applicant failed to either state that the applicant is claiming a bug barrier or a bug barrier in combination with the door. The art of record clearly discloses a bug barrier as recited in the applicant's claimed invention as well as a suitable means (double sided adhesive foam) for attaching the bug barrier to any desired slidable closure. Furthermore, the applicant states that it would be impossible to mount the bug barrier of Murase et al. using double sided adhesive foam as taught by Meizlish since Murase et al. has a hollow portion yet the applicant's claimed device also has a hollow portion (as claimed) and yet the applicant's bug barrier is mounted via adhesive tape. Furthermore, the applicant states that the bug barrier of Murase et al. is "not planer by any stretch of imagination". This argument is also traversed since Webster's New World Dictionary,


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third edition, defines planar as of or lying in one plane. Therefore, the bug barrier of Murase et al. is in as much of one plane as shown and defined in the specification by the applicant's bug barrier.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication should be directed to Jerry Redman at telephone number 703-308-2120.


Jerry Redman
Primary Examiner